

*Received 3/24/06
2.R.A.***United States District Court**

for

Southern District of Ohio**Petition for Warrant or Summons for Offender Under Supervision**Name of Offender: **Damin Lewis**Case Number: **1:02CR00104**Name of Sentencing Judicial Officer: **The Honorable Herman J. Weber
Senior United States District Judge**Date of Original Sentence: **January 8, 2003**Original Offense: **Possession of Firearms by a Convicted Felon, in violation of 18 USC §§ 922(g)(1) and
924 (a)(2), a class C felony**Original Sentence: **37 months BOP confinement, 3 years supervised release**Type of Supervision: **Supervised Release**Date Supervision Commenced: **April 13, 2005**Assistant U.S. Attorney: **Timothy D. Oakley, esq.**Defense Attorney: **Richard Smith-Monahan, esq.**

PETITIONING THE COURT

- ☐ To issue a warrant
☐ To issue an Order to Appear and Show Cause
☒ To grant an exception to revocation without a hearing and to modify the conditions of supervision.

Violation NumberNature of Noncompliance

#1

Condition #7: You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;

On October 31, December 2, 2005, January 9, January 17, January 23, January 30, February 6, February 13, and February 21, 2006, Lewis submitted urine specimens, which returned positive for usage of marijuana.

U.S. Probation Officer Recommendation:

Lewis has been in treatment from the onset of the supervision. As a result of his usage, this officer has attempted to best fit the treatment plan to fit the needs in this case. Lewis has not responded accordingly, and needs a structured environment to help himself get back on track. 18 USC § 3583(g)(4) requires revocation for testing positive more than three times in the same 365 day time period. However, pursuant to 18 USC § 3583(d), the Court shall consider the availability of appropriate substance abuse treatment programs, or the individual's current or past performance in such programs warrants an exception to revocation.

This officer met with Lewis about the positive drug tests on a number of occasions. Lewis recently obtained

employment, and is trying to piece his relationship with his wife and children back together. He has opened a recording studio, which will generate income for him, and allow him to pursue his interests in music. As a result, Lewis appears motivated to get back on track.

This officer met with Lewis about the proposed modification. This officer explained the modification and his rights to consult with an attorney before making any decision on the matter and his right to a modification hearing represented by counsel. Lewis stated he understood the modification and his rights completely, and stated he wanted to waive those rights as he was in agreement with the proposed modification. He then voluntarily signed the waiver form.

Based on the marijuana usage, need for structure and treatment, and Lewis's agreement with the proposed modification, this officer is respectfully recommending the Court grant the exception clause under 18 USC § 3583(d) and the halfway house modification as stated below. Please find the signed waiver form attached to this petition.

The term of supervision should be

- ☐ Revoked.
- ☐ Extended for _____ years, for a total term of _____ years.
- ☒ Continued based upon the exception to revocation under 18 USC § 3583(d)
- ☒ The conditions of supervision should be modified as follows:

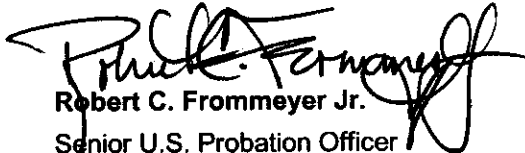
The supervised releasee shall reside in a halfway house facility for a period of 90 days in the work release component. While in the program, the supervised releasee will abide by all of the program's rules and regulations, and be cooperative and compliant with the program's staff.

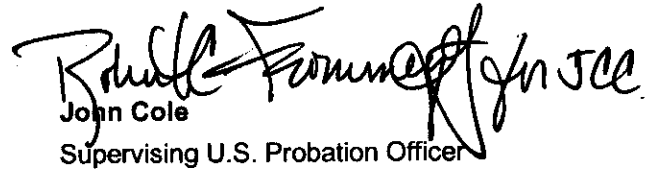
I declare under penalty of perjury that
the foregoing is true and correct.

Approved,

Executed on March 21, 2006


by


Robert C. Frommeyer Jr.
Senior U.S. Probation Officer


John Cole
Supervising U.S. Probation Officer
Date: March 21, 2006

THE COURT ORDERS:

- ☐ No Action
- ☐ The Court finds that there is probable cause to believe the defendant has violated the conditions of his/her probation/supervised release and orders the Issuance of a Warrant for his/her arrest.
- ☐ The Issuance of an Order to Appear and Show Cause
- ☒ The Court finds the defendant can benefit from continued substance abuse treatment and grants an exception to revocation. The supervision term of the defendant is continued under all original terms and conditions. The Court also grants the modification to the conditions of supervision.
- ☐ Other


Signature of Judicial Officer
3/29/06
Date

PROB 49

**UNITED STATES DISTRICT COURT
Southern District of Ohio**

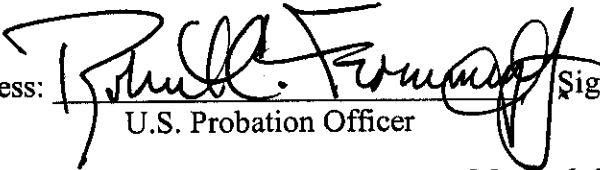
**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel" I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing. I also understand I have the right to contact an attorney prior to signing this waiver.

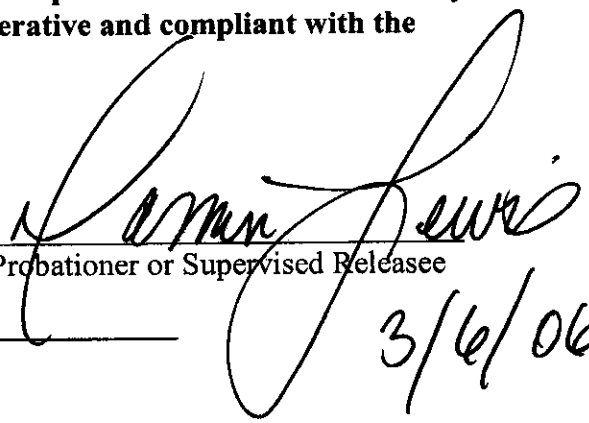
I hereby knowingly and voluntarily waive my right to consult an attorney before signing this waiver and I knowingly and voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

The supervised releasee shall reside in a halfway house facility for a period of 90 days in the work release component. While in the program, the supervised releasee will abide by all of the program's rules and regulations, and be cooperative and compliant with the program's staff.

Witness:


U.S. Probation Officer

Signed:


Probationer or Supervised Releasee

March 6, 2006

DATE

3/6/06